

HB 90

HOUSE BILL NO. 90 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to bonding limitations and confidentiality of records and information of the Alaska Industrial Development and Export Authority; and providing for an effective date."

was read the first time and referred to the Labor & Commerce and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Commerce, Community, & Economic Development

The Governor's transmittal letter dated January 23, 2009, follows:

"Dear Speaker Chenault:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to bonding limitations and confidentiality of records and information of the Alaska Industrial Development and Export Authority (AIDEA).

This bill would accomplish five things. Section 1 of the bill would exclude refunding and conduit revenue bonds from the 12-month bond limit of the Authority. AS 44.88.095(a) precludes AIDEA from issuing more than \$400,000,000 of bonds during any 12-month period. Enactment of the bill would ensure that the 12-month bond limit would never preclude AIDEA from issuing refunding bonds to refinance existing development finance project debt on more favorable terms, or from issuing conduit revenue bonds for which AIDEA has no financial obligation to pay. Conduit revenue bonds are payable by the project developer and related parties, primarily from revenue generated by the project.

Section 2 of the bill would eliminate the sunset of the statutory ability of AIDEA issuing bonds. AS 44.88.095(g) severely limits the ability of AIDEA to issue bonds. Before the July 1, 2007 statutory sunset, AS 44.88.095(g) authorized AIDEA to issue most bonds without further legislative approval; the sole exception being bonds in excess

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of \$10,000,000 to assist in the financing of a development project under AS 44.88.172 - 44.88.177. That authorization to issue bonds ended on July 1, 2007, with the statutory sunset. AIDEA currently requires legislative approval to issue any bonds, excepting refunding and conduit revenue bonds. Section 2 of the bill would amend AS 44.88.095(g) to eliminate the sunset and enable AIDEA to again issue most bonds without legislative approval. AIDEA will still require legislative approval to issue bonds in excess of \$10,000,000 to assist in the financing of development projects, excluding refunding bonds.

Section 2 of the bill would also expressly clarify in statute that AIDEA may use proceeds from refunding bonds to finance certain costs and expenses associated with issuing the refunding bonds.

AS 44.88.095(g) empowers AIDEA to issue refunding bonds for development projects, but does not provide sufficient clarity required by bond markets to enable proceeds from the refunding bonds to be used to pay more than the outstanding balance of the existing bonds. The bill, if enacted, would enable AIDEA to issue refunding bonds, the proceeds from which can be used to pay both the outstanding balance of the existing bonds and the costs of refinancing, funding reserves, and other costs related to issuing refunding bonds for development projects. The ability to use refunding bond proceeds to pay these additional costs is anticipated to reduce the cost of financing, which would provide a direct economic benefit to project developers.

Sections 3 and 4 of the bill would amend AS 44.88.215 to clarify confidential records and information of AIDEA, and processes for determining confidentiality. AS 44.88.215 assists the mission of AIDEA by assuring borrowers, applicants, and project developers that certain records and information provided to AIDEA will be kept confidential. AIDEA has heard complaints from borrowers, applicants, and project developers because AS 44.88.215 does not clearly establish that AIDEA can retain the confidentiality of certain types of documents. Sections 5 and 6 of the bill attempt to address these concerns by clarifying that certain types of records and information are confidential, defines "trade secrets" using the Alaska Uniform Trade Secrets Act to clarify existing statutory language, and establishes processes for the executive director of AIDEA to determine confidentiality of records and information.

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Finally, Section 8 of the bill would make the Act effective on July 1, 2009.

I urge your prompt and favorable action on this measure.

Sincerely,
/s/
Sarah Palin
Governor"